

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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VICTOR RIVERA,

Plaintiff,

-against-

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 11/18/2021

19 **CIVIL** 11624 (KPF)

**JUDGMENT**

BOARD OF EDUCATION OF THE CITY  
SCHOOL DISTRICT OF THE CITY OF NEW  
YORK, a/k/a THE NEW YORK CITY  
DEPARTMENT OF EDUCATION,

Defendant.  
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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated November 18, 2021, Defendant's motion to dismiss the Amended Complaint is granted. Plaintiff has not requested leave to file a Second Amended Complaint. And in light of the guidance this Court provided in Rivera I regarding the filing of amended pleadings, the Court does not believe further amendment would remedy the pleading deficiencies outlined in this Opinion. See Binn v. Bernstein, No. 19 Civ. 6122 (GHW) (SLC), 2020 WL 4550312, at \*34 (S.D.N.Y. July 13, 2020) ("To grant Plaintiffs leave to amend would be allowing them a 'third bite at the apple,' which courts in this district routinely deny." (collecting cases)), report and recommendation adopted, 2020 WL 4547167 (S.D.N.Y. Aug. 6, 2020); see generally Gorman v. Covidien Sales, LLC, No. 13 Civ. 6486 (KPF), 2014 WL 7404071, at \*2 (S.D.N.Y. Dec. 31, 2014) (noting that "it remains 'proper to deny leave to replead where... amendment would be futile'" (citing Hunt v. Alliance N. Am. Gov't Income Trust, Inc., 159 F.3d 723, 728 (2d Cir. 1998))). Accordingly, Plaintiff's claims against the DOE are dismissed with prejudice; accordingly, the case is closed.

**Dated:** New York, New York

November 18, 2021

**RUBY J. KRAJICK**

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Clerk of Court

BY:

*Kmango*  
\_\_\_\_\_  
Deputy Clerk